

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

JEIMY LONDONO ROCHA, *Applicant*

vs.

**JTM STAFFING, L.L.C., insured by SIRIUSPOINT AMERICA INSURANCE
COMPANY, C/O CORVEL, *Defendants***

**Adjudication Number: ADJ17537823
San Jose District Office**

**OPINION AND ORDER
DENYING PETITION FOR
REMOVAL**

Applicant seeks removal in response to the Order denying a request (Order) for continuance of a status conference issued by a workers' compensation administrative law judge (WCJ).

Applicant contends that the order by the WCJ denying the request was discourteous, disrespectful, dismissive, impatient, as well as un-judicious, and requests that a continuance be granted.

We have considered the allegations of the Petition for Removal and the contents of the Report and Recommendation (Report) of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record and based upon the WCJ's analysis of the merits of petitioner's arguments in the WCJ's report, we will deny removal.

While we note the WCJ acknowledges that the language used in the denial order was flippant, brusque, hasty, and intemperate, we agree with the WCJ that there has been no allegation or demonstration of irreparable harm by petitioner constituting good cause for removal.

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that substantial prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10955(a); see also *Cortez, supra*; *Kleemann, supra*.) Also, the petitioner must

demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10955(a).) Here, based upon the WCJ's analysis of the merits of petitioner's arguments, we are not persuaded that substantial prejudice or irreparable harm will result if removal is denied and/or that reconsideration will not be an adequate remedy if the matter ultimately proceeds to a final decision adverse to petitioner.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 17, 2024

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**JEIMY LONDONO ROCHA
JC DUNN LAW APC
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I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*